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ELECTION COMMISSION, INDIA

(Election Tribunal, State of Ajmer)

NOTIFICATION

Ajmer, the 19th November 1953

S.R.O. 2233.—In pursuance of the provisions of Sub-Section (1) of the section 90 of the Representation of the People's Act, 1951 (XLIII of 1951), the following Election Petition presented under section 81 thereof is published for information.

BEFORE THE ELECTION COMMISSIONER, NEW DELHI, INDIA

ELECTION PETITION NO. 23 OF 1953

Shri Kishen Lal Lamror son of Ch. Motiram, Advocate, Kutchery Road, Ajmer—Petitioner.

Versus

1. Shri Madan Singh son of Harlal, Daroga Rajput, Advocate, Station Road, Ajmer.
2. Shri Budha son of Kalu, Rawat Rajput of village and P. O. Madarpura, P. S. Gegal, Tehsil and District Ajmer.
3. Shri Shiv Narain Singh, Advocate, Imperial Road, Ajmer—Respondents.

ELECTION PETITION UNDER SECTION 100 AND 101 OF THE REPRESENTATION OF PEOPLE ACT, 1951, READ WITH SECTION 6 OF THE PART 'C' STATES ACT, 1951.

The petitioner named above respectfully begs to submit as under:—

1. That the petitioner was duly elected a member of the Ajmer State Legislative Assembly from Gagwana Constituency in General Elections in 1952, but in Election Petition No. 235 of 1952 the Election Tribunal of the State of Ajmer by its judgment dated 22nd May 1953 set aside his election on the ground of improper rejection of the nomination paper of one of the other candidates at the said election. That in consequence a bye-election in the said constituency was notified and nomination forms were invited by 11th August 1953.

2. That the petitioner was again proposed as a candidate for the said bye-election in the Assembly Constituency of Gagwana (Ajmer Sub-division) State of Ajmer.

3. That the respondents Nos. 1 and 2 were the other two candidates for the said bye-election duly notified to be held on 20th September, 1953. Respondent No. 2 Budha, is the same person who was the petitioner in the Election Petition mentioned in para. 1 above.

4. That on or about 11th August 1953 the petitioner and the respondents filed their nomination papers which were scrutinised by the Returning Officer on 14th August 1953.

5. That on 14th August 1953 the respondents Nos. 1 and 2 filed objections before the Returning Officer against the acceptance of the nomination paper of the petitioner on the ground that the petitioner was (i) an assessor on the Railway Rates Tribunal and (ii) a member and Chairman of the Ajmer State District Board both of which being alleged offices of profits, it was urged that the petitioner was disqualified to contest election.

6. That the petitioner contended amongst other things that the District Board was not a Department under the State Government and to be its member or Chairman (an elected office) could not be an office of profit and that he was not an assessor on the Railway Rates Tribunal, and in the alternative an assessor, far from being an office of profit, did not amount to even an office.

7. That the petitioner further contends that it is an error and a misconception to call the aforesaid office and position of the petitioner as office of profit within the meaning of law and constitution.

8. That however the Returning Officer at the scrutiny rejected the nomination paper of the petitioner on the ground that the petitioner by virtue of his being a member of the District Board and an assessor of the Railway Rates Tribunal held an office of profit and was thus disqualified to be a candidate at the bye-election. A copy of the Returning Officer's order is enclosed and marked Document No. 1.

9. That the said rejection of the nomination paper of the petitioner by the Returning Officer is *mala fide*, illegal and improper and the result of the election has been materially affected by the said improper rejection.

10. That on or about 17th August 1953 the respondent No. 1 in collusion with Shri Shiv Narain Singh Advocate, Imperial Road, Ajmer an authorised agent of respondent No. 2, induced the respondent No. 2 to withdraw from being a candidate at the said bye-election. The inducement was procured by payment of Rs. 100 and further by a promise to pay a sum of Rs. 2,100 on a day after the said withdrawal. In pursuance of such collusion and inducement respondent No. 2 withdrew his candidature, and thus respondent No. 1 remained the only one duly nominated candidate in the constituency.

11. That therefore no polling took place and respondent No. 1 was declared elected and his result was published under section 67 of the Representation of People Act, 1951, in the Government of India Gazette, Part III section 3, dated the 5th September, 1953.

12. That the notice of the return of election expenses filed by respondent No. 1 has been published under rule 113 of the Representation of the People (Conduct of Elections and election Petition) Rules 1951 in the Government of India Gazette, Part III section 3, 1953, and therefore the petition is within prescribed time.

13. That the election of the respondent No. 1 is void on the following amongst other grounds:—

- (a) that the rejection of nomination of the petitioner by the Returning Officer was improper and illegal and the result of the bye-election has thereby been materially affected.
- (b) that the respondent No. 1 has been guilty of major corrupt practice within the meaning of section 123 of the Representation of the People Act, 1951, as specified below:—
 - (i) That on or about 17th August 1953 respondent No. 1 and respondent No. 3 improperly procured withdrawal of nomination of Respondent No. 2 by inducing him by paying him a sum of Rs. 100 on 17th August 1953 and further by promising him to further pay a

sum of Rs. 2,100 on 18th August 1953 in case he withdrew his nomination which he infact did on 17th August 1953, full particulars of which are given in Appendix A. Certified copies of the complaint and notice filed by respondent No. 2 before the returning Officer in this connection are herewith attached and marked as documents Nos. 2 and 3.

- (ii) That the return of the election expenses as filed by the respondent No. 1 is false in material particulars. Respondent No. 1 incurred more expenses than are permitted by law and the return are not in accordance with the prescribed rules. Particularly the money paid to respondent No. 2 as alleged above has not been shown in the return of expenses aforesaid.

14. That respondent No. 1 and Shri Shiv Narain Singh, Advocate and M.L.A. Ajmer State Legislative Assembly Respondent No. 3 are guilty of committing corrupt practices.

15. That a treasury receipt of Rs. 1,000 (One thousand) only is hereby attached to show that the deposit required by section 117 of the Representation of People Act, 1951 has been duly made.

16. That the petitioner therefore prays that:—

- (a) Election of respondent No. 1 Shri Madan Singh be declared wholly void or void, and be therefore set aside.
- (b) Respondent No. 1 and No. 3 be disqualified under section 140 of the Representation of People Act 1950.
- (c) Costs of this petition be allowed.

AJMER;

Dated 13th October 1953.

Petitioner.

Verification

I, Kishen Lal Lamror, petitioner, above named do hereby verify that the contents of paras. from 1 to 15 are true to my knowledge and para. No. 16 is prayer.

AJMER;

Dated 13th October 1953.

Petitioner.

APPENDIX 'A'

List containing particulars of corrupt practice as mentioned in para. 12 (b) (i) of the petition.

That on or about 18th August 1953 the respondent No. 1 and 3 began to search for respondent No. 3 and went to his village Madarpura whereby they learnt that Shri Budha had gone to village Hokran P. S. Pushkar and they then went there and persuaded respondent No. 2 to withdraw his candidature. On hesitation on the part of respondent No. 2, they brought him to Ajmer and bribed him by paying a sum of Rs. 100 in cash and promised to further pay a sum of Rs. 2,100 till 18th August 1953 and as a result of this bribe the respondent No. 2 withdrew his candidature on the afternoon of 18th August 1953. That on 18th August 1953 the respondent No. 1 and 3 did not pay respondent No. 2 the promised sum and the latter presented an application before the Returning Officer on 19th August 1953 a certified copy whereof along with the annexure being a copy of the notice sent to respondents No. 1 and 3 are enclosed herewith.

AJMER;

Dated 13th October 1953.

Petitioner.

Verification

I, Kishen Lal son of Ch. Motiram, Kutchery Road, Ajmer do hereby declare and state that the contents of the above appendix are true to the best of my knowledge and belief.

Verified and signed at Ajmer 13th October, 1953.

Petitioner.

[No. E.]

J. D. SHARMA, Chairman,
Election Tribunal, State of Ajmer, Ajmer.

By Order,
P. R. KRISHNAMURTHY,
for Chief Election Commissioner.